



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov
DW Sep-05

JOHN D. GUGLIOTTA, P.E., ESQ.
202 DELAWARE BUILDING
137 SOUTH MAIN STREET
AKRON OH 44308

COPY MAILED

SEP 27 2005

OFFICE OF PETITIONS

In re Application of :
Cassell et al. :
Application No. 09/767,413 : ON PETITION
Filed: 23 January, 2001 :
Atty Docket No. 887 :

This is a decision on the petition under 1.137(b),¹ filed on 24 August, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover

¹Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114.

In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency decision.

This application became abandoned on 8 April, 2005, for failure to properly to the final Office action mailed on 7 January, 2005, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. The filing of the present petition precedes the mailing of Notice of Abandonment.

The petition lacks the statement required by 37 CFR 1.137(b)(3). Specifically, Pages 2 and 3 of the petition form, including the statement that the entire delay, from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b), was unintentional, cannot be located with the papers received on 24 August, 2005. As such, petitioners should supply a copy of Pages 2 and 3 of the petition.

The petition is therefore dismissed without prejudice to reconsideration pending receipt of a complete petition.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.


Douglas I. Wood
Senior Petitions Attorney
Office of Petitions